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January 25, 2005

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VIA HAND DELIVERY

ECF

Hon. Richard Conway Casey
United States District Judge
Southern District of New York
United States Courthouse
500 Pearl Street, Room 1350
New York, NY 10007-1312

Re: In re Terrorist Attacks of September 11, 2001, MDL No. 1570 (RCC);
Burnett v. Al Baraka Investment & Development, et al., 03 CV 9849
(RCC); Ashton v. Al Qaeda Islamic Army, 02 CIV 6977 (RCC)

Dear Judge Casey:

I write on behalf of the *Burnett* Plaintiffs to request permission from the Court to file an opposition to defendant *pro se* Yeslam Bin Laden's motion to dismiss. Unbeknownst to the *Burnett* Plaintiffs, Yeslam Bin Laden filed with the Court a motion to dismiss in February or March of 2004. At the time this pleading was filed with the Court, it did not appear on the MDL 1570 docket when filed, presumably because the ECF system was not yet in place. The motion papers were not properly served, being sent to only one Plaintiffs' lawyer. (See attached Certificate of Service.)

After being made aware of the existence of this brief, after investigation, Plaintiffs determined that rather than serve the motion upon all Plaintiffs' counsel as is required under the rules and CMO, Defendant Yeslam Bin Laden served the document solely on Plaintiffs' counsel Mr. Harry Hugg. At the time, Mr. Hugg was caring for his terminally ill mother who has since passed away. Mr. Hugg apparently either did not receive or did not forward the Yeslam Bin Laden motion to Plaintiffs' (or other) counsel, and consequently Plaintiffs had no notice that this motion to dismiss had been filed. When Plaintiffs learned of this situation, they wrote to Mr. Bin Laden in an attempt to resolve the matter (*see* attached). To date no response has been received.

Plaintiffs request permission from the Court to respond to the motion out of time.

Respectfully Submitted,

Jodi W. Flowers/MP

Jodi Westbrook Flowers

JWF/crh

Attachment

cc: Yeslam Bin Laden
All Counsel of Record

Richard Conway Casey